

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Appeal No. 15315 of the Blagden Alley Association, pursuant to 11 DCMR 3105.1 and 3200.2, from the decision of Donald G. Murray, Director, Department of Consumer and Regulatory Affairs, made on October 27, 1989, to the effect that to issue a Certificate of Occupancy for a nonconforming use entailed a change of use and should have been referred to the Board, for a retail and wholesale electrical supply company in an R-4 District at premises 917 M Street, N.W. (Square 368, Lots 147, 68, 69, 70, 61 and 863).

HEARING DATE; June 20, 1990
DECISION DATE: July 11, 1990

DISPOSITION: The Board GRANTED the appeal by a vote of 4-0
 (Carrie L. Thornhill, Charles R. Norris, Paula
 L. Jewell and William F. McIntosh to grant)

FINAL DATE OF ORDER: August 23, 1991

ORDER

The Board granted the appeal and reversed the decision of the Director, Department of Consumer and Regulatory Affairs, by its order dated August 23, 1991. On September 5, 1991, the tenant of the subject premises, an intervenor in the appeal, filed a motion requesting the Board to reconsider its decision in the appeal. The intervenor argues that the Board's decision in the appeal should be reversed because, while maintaining that the Certificate of Occupancy was not issued in error, the intervenor has clearly established that the elements of estoppel are applicable in the instant case.

By letter dated September 30, 1991, the representative of the appellant opposed the motion for reconsideration. The appellant argued that the intervenor presented no information which the Board had not previously considered; that the use is inappropriate in an historic district; and that the community should not be penalized to correct an error made by the government. The appellant also noted that the intervenor has failed to apply for the appropriate zoning relief necessary to establish the use at the subject site.

Upon review of the motion, the response thereto, the evidence of record and its final order, the Board concludes that the motion provides no substantive evidence that the Board has not previously considered but merely seeks to reargue the intervenor's case. The Board concludes that the issues raised were thoroughly presented at the public hearing and were addressed in the final order. The Board's decision was based on its consideration of all the evidence presented by all the parties to the appeal. The fact that the

BZA APPLICATION NO. 15315

PAGE NO. 2

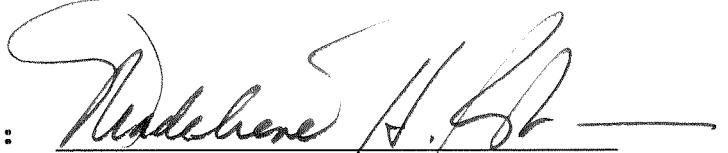
Board and the intervenor came to different conclusions does not make the judgement of the Board arbitrary, capricious or unlawful. The Board further concludes that no new evidence has been presented which would warrant a rehearing of the case. The Board notes that the intervenor has the option of filing an application before the Board seeking appropriate zoning relief to permit the use at the subject site. Accordingly, it is ORDERED that the motion for reconsideration is hereby DENIED.

DATE OF DECISION: October 2, 1991

VOTE: 3-0 (Charles R. Norris, Paula L. Jewell and Carrie L. Thornhill to deny; Sheri M. Pruitt not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


MADELIENE H. ROBINSON
Acting Director

FINAL DATE OF ORDER:

NOV 22 1991

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

ord15315/LJP

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



APPLICATION/APPEAL NO. 15315

As Acting Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a copy of the Order in this application/appeal dated NOV 22 1991 has been mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Kenneth E. Yancy, Jr.
929 M Street, N.W.
Wash, D.C. 20001

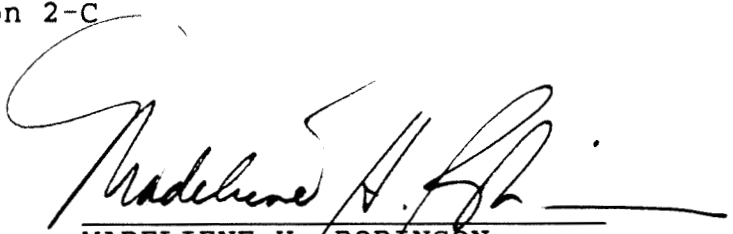
Phillip Abraham
3300 Newark Street, N.W.
Wash, D.C. 20008

Marthlu Bledsoe
905 M Street, N.W.
Wash, D.C. 20852

Kenneth Katz
6128 Tuckerman Lane
Bethesda, MD 20852

Harold H. Davitt, President
The Blagden Alley Assn.
905 M Street, N.W.
Wash, D.C. 20001

Clifford W. Waddy, Chairperson
Advisory Neighborhood Commission 2-C
1200 S Street, N.W., #201
Washington, D.C. 20009


MADELIENE H. ROBINSON
Acting Director

DATE: NOV 22 1991